

Bill M.



NORTH DAVIS SEWER DISTRICT

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August 6, 2008

**DIVISION OF
WATER QUALITY**

State of Utah
Department of Environmental Quality
Division of Water Quality
Cannon Health Building
288 North 1460 West
Salt Lake City, Utah 84116-3231



DWQ-2008-001387
Document Date: 08/06/2008

ATTN: Walter L. Baker, Director

SUBJECT: Comments on Proposed Changes to R317-2

Dear Walt:

After a review of the currently proposed changes to the Water Quality Rules (Rules), the North Davis Sewer District (District) has noted several items that could impact the District and other POTW's in the State. The impacts of most concern for the District are as follows:

1. The rules regulating antidegradation have changed; we are concerned that this may require the District to perform an increasing number of Level II reviews. The need or benefit of Level II reviews for POTW's is questionable. Specifically, for the new Category 3 waters, the imposition of a Level II review if the pollutant of concern exceeds 75% of the standard down stream of the mixing zone imposes a de facto standard that must be met even before the actual standard is exceeded. The existing standards already have a significant level of conservatism without an additional review being imposed. Also, the removal of the 3C, 3D and 3E waters "off ramp" has the potential for requiring high costs to POTW's impacted without a commensurate benefit. We ask that the current "off ramp" be maintained.
2. The District has concerns regarding the development and implementation of a selenium standard for the Great Salt Lake as follows:
 - a. Use of an EC-10 Basis for Standard Development – prior standards established by the State have been set using an EC-20 basis. While the need for a conservative standard is understood, there are other safety factors built into the development process, such as use of the mallard sensitivity. The science panel recommended range included the EC-20 value and EPA proposed fish tissue value is based on an EC-20, and the District feels strongly that the selenium standard for the Great Salt Lake should also be based on an EC-20 basis.

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4252 West 2200 South
Syracuse, Utah 84075

P.O. Box 704
Layton, Utah 84041

Tel: 801 825-0712
Fax: 801 773-6320

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- b. Footnote 14 – Assessment Procedure – the use of an EC-10 is very conservative; however, footnote 14 goes further and establishes an even more restrictive standard. At 60% of the standard, all point source loads are capped. At 80% of the standard, load reductions are evaluated. These assessment procedures establish an actual standard or limit below the scientifically defensible value, and are unduly restrictive. If the basis or need for this assessment procedure is antidegradation, then the new antidegradation standard should be applied. If the most stringent standard applied by EPA is an EC-10, it appears that this assessment procedure is more restrictive than the federal standard and is therefore in violation of the State Code 19-5-105 which restricts the authority to establish more stringent limits. Nothing in the science panel development documents and associated research suggest that the EC-10 value is not protective in and of itself. As such, the assessment procedure is not only unnecessary, but fails to meet the Code stipulation that the EC-10 alone is “not adequate to protect public health and the environment of the State”.
- c. Minimum Dissolved Oxygen Standard – we interpret that the change from a *one-day average* to a *minimum* for the DO standard includes the allowance that 10% of the measurements may exceed the minimum before an impairment is declared (R317-2-7.1). We also interpret this proposed change to mean that if a continuous DO reading is recorded, the minimum would have to be exceeded greater than 10% of the time before the water is placed on the 303d list. Are these interpretations correct? If they are not, we request that the proposed rule be changed to clearly read as we have interpreted it to mean.

We thank you for your kind consideration of our comments and concerns.

Sincerely,



Kevin R. Cowan, P.E.
District Manager